

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DIRECTV, INC. : CIVIL ACTION
 :
 v. :
 :
 JEROME JOHNSON : NO. 03-03286-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

January 7, 2005

Plaintiff has filed a motion for a default judgment. Since the complaint has been properly served, and since the defendant has not responded, it is clear that plaintiff is entitled to judgment by default. The remaining issue is determining the amount of the judgment to be entered.

Plaintiff is a provider of satellite television service, and alleges that the defendant unlawfully obtained a device which enabled the defendant to steal a satellite signal and thus avoid payment for the satellite service. Plaintiff's claims are predicated upon various statutory provisions: 47 U.S.C. § 605(a) in Count 1, 18 U.S.C. §§ 2511 and 2520 in Count 2, and 18 Pa. C.S.A. § 910 in Count 6. It is agreed, however, that duplicate damages should not be awarded under the various theories asserted.

Under 47 U.S.C. § 605(a), plaintiff may be awarded statutory damages ranging from \$1,000 to \$10,000 per violation. Under 18 U.S.C. § 2511, plaintiff may be awarded up to \$100 per

day for each day of violation. Or, under 18 Pa. C.S.A. § 910, plaintiff may be awarded statutory damages ranging from \$250 to \$10,000 for each of the four devices possessed by the defendant. In addition, plaintiff may be awarded reasonable counsel fees and costs of suit, stated to total \$3,590.03.

In the alternative to the above amounts, plaintiff may be awarded actual damages. The record does not, however, provide an adequate basis for determining the actual damages caused to plaintiff by defendant's activities, since there is no way to calculate plaintiff's presumed lost revenues. There is no way to determine how many satellite signals were pirated. For the same reason, it is impossible to determine with any degree of assurance precisely how many violations of the statute precluding such interception may have been committed by the defendant. The clearest, and most satisfactory, basis for assessment of damages is the per-device standard established by 18 Pa. C.S.A. § 910.

As noted above, the court has discretion to assess anywhere from \$250 to \$10,000 for each of the four devices possessed by the defendant. I conclude that a fair and reasonable award should exceed the minimum discretionary amount, but does not rise to the level of the maximum amount. I therefore assess damages in the sum of \$5,000 for each of the four devices, for a total damage award of \$20,000. To this amount will be added the amount of attorney's fees and costs in

the sum of \$3,590.03, for a total award of \$23,590.03. In addition, as authorized by the statutes cited, the defendant will be permanently enjoined from further violations. An Order to that effect is now entered.

/s/ John P. Fullam
John P. Fullam, Sr. J.